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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 JOAQUIN A. RODRIGUEZ TORRES, )  
CORNELIA M. STEUBE, ) No. C 07-3345 TEH  
14 Plaintiffs, )  
15 v. ) ANSWER  
16 GERARD HEINAUER, Director, U.S. )  
Citizenship and Immigration Services, )  
17 Nebraska Service Center; )  
DR. EMILIO T. GONZALEZ, Director, U.S. )  
18 Citizenship and Immigration Services; )  
MICHAEL CHERTOFF, Secretary of the U.S. )  
19 Department of Homeland Security; )  
ROBERT MUELLER, Director, )  
20 Federal Bureau of Investigations; )  
ALBERTO GONZALES, Attorney General, )  
21 U.S. Department of Justice, )  
22 Defendants. )  
23

24 Defendants hereby submit their answer to Plaintiffs' Complaint for a Writ in the Nature of  
Mandamus.

25 The initial unnumbered Paragraph consists of Plaintiffs' characterization of this action for  
26 which no answer is necessary; however, to the extent a response is deemed to be required, the  
27 Defendants deny that they have improperly withheld action on Plaintiffs' applications to their  
28

Answer  
C07-3345 TEH

1 detriment.

2 **PARTIES**

- 3 1. Defendants admit the allegations in Paragraph One.  
4 2. Defendants admit the allegations in Paragraph Two.  
5 3. Defendants admit the allegations in Paragraph Three.  
6 4. Defendants admit the allegations in Paragraph Four.  
7 5. Defendants admit the first two sentences in Paragraph Five. Defendants deny the third  
8 sentence of Paragraph Five. Defendants are without sufficient information to admit or deny the  
9 allegations in the last sentence of Paragraph Five.

10 **JURISDICTION**

- 11 6. Paragraph Six consists of Plaintiffs' allegation regarding jurisdiction, to which no  
12 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,  
13 Defendants deny the allegations in this paragraph.

14 **VENUE**

- 15 7. Defendants admit the allegations in Paragraph Seven.

16 **EXHAUSTION**

- 17 8. Defendants deny the allegations in Paragraph Eight.

18 **STATEMENT OF FACTS**

- 19 9. Defendants are without sufficient information to admit or deny the allegations in Paragraph  
20 Nine.

- 21 10. Defendants admit the allegations in Paragraph Ten.

- 22 11. Defendants admit the allegations in Paragraph Eleven.

- 23 12. Defendants are without sufficient information to admit or deny the allegations in  
24 Paragraph  
25 Twelve.

- 26 13. Defendants deny the allegations in Paragraph Thirteen.

- 27 14. Defendants admit the first two sentences in Paragraph Fourteen. Defendants are without  
28 sufficient information to admit or deny the remaining claims in Paragraph Fourteen.

1 15. Defendants admit that Plaintiffs must obtain annual work permits and travel parole  
2 documents. Defendants are without sufficient information to admit or deny the remaining  
3 allegations in Paragraph Fifteen.

4 16. Defendants are without sufficient information to admit or deny the allegations in  
5 Paragraph Sixteen.

6 17. Defendants deny the allegations in Paragraph Seventeen.

7 **FIRST CLAIM FOR RELIEF**

8 18. Defendants re-allege and incorporate by reference to Paragraph One through Seventeen as  
9 if set forth fully herein.

10 19. Defendants admit the allegations in Paragraph Nineteen.

11 20. Defendants deny the allegations in Paragraph Twenty.

12 21. Defendants deny the allegations in Paragraph Twenty-One.

13 **RELIEF REQUESTED**

14 22. Paragraph Twenty-Two consists of Plaintiffs' prayer for relief, to which no admission or  
15 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny  
16 this paragraph.

17 **FIRST AFFIRMATIVE DEFENSE**

18 The court lacks jurisdiction over the subject matter of this action.

19 **SECOND AFFIRMATIVE DEFENSE**

20 The Complaint fails to state a claim against the Defendants upon which relief can be granted.

21 **THIRD AFFIRMATIVE DEFENSE**

22 No acts or omissions by the United States or its employees were the proximate cause of any  
23 injury or damages to the Plaintiffs.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 At all times alleged in the complaint, Defendants were acting with good faith, with  
26 justification, and pursuant to authority.

27 **FIFTH AFFIRMATIVE DEFENSE**

28 Defendants are processing the applications referred to in the Complaint to the extent possible

1 at this time. Accordingly, no relief as prayed for is warranted.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 Defendants' delay is not unreasonable as a matter of law.

4 WHEREFORE, Defendants pray for relief as follows:

5 That judgment be entered for Defendants and against Plaintiffs, dismissing Plaintiffs'  
6 complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief  
7 as it deems just and proper under the circumstances.

8 Dated: August 31, 2007

Respectfully submitted,

9 SCOTT N. SCHOOLS  
United States Attorney

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11 /s/  
12 ILA C. DEISS  
Assistant United States Attorney  
13 Attorneys for Defendants

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